

SUMMARY ANALYSIS OF AMENDED BILL

Author: Scott & Strom-Martin Analyst: Jeani Brent Bill Number: AB 1613

Related Bills: AB 2108, SB 1996 Telephone: 845-3410 Amended Date: 02/19/98

Attorney: Doug Bramhall

Sponsor:

SUBJECT: Conformity/HOPE and Lifetime Learning Credits/Qualified State Tuition Programs/Education Loan Interest Deduction

DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as amended January 15, 1998.

FURTHER AMENDMENTS NECESSARY.

DEPARTMENT POSITION CHANGED TO _____.

REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED January 15, 1998, STILL APPLIES.

OTHER - See comments below.

SUMMARY OF BILL

This bill would partially conform California law to the federal non-refundable HOPE and lifetime learning credits, conform to the deduction for interest on certain education loans, and conform to the modifications and clarifications of the rules relating to qualified state tuition programs contained in the federal 1997 Taxpayer Relief Act (Public Law 105-34).

SUMMARY OF AMENDMENT

The February 19, 1998, amendment deletes the bill's prior language regarding the Legislature's intent to make higher education more accessible and reinserted the language contained in the January 15, 1998, version of the bill that would conform California law to the federal HOPE and lifetime learning credits and the modifications to qualified state tuition discussed in this analysis. The February 19, 1998, amendment also would make several nonsubstantive technical changes to the Golden State Scholarshare Trust Act provisions.

The January 28, 1998, amendment deleted the bill's prior language regarding conforming California law to the federal HOPE and lifetime learning credits and the modifications to qualified state tuition and inserted language regarding the Legislature's intent to make higher education more accessible.

DEPARTMENTS THAT MAY BE AFFECTED:

___ STATE MANDATE

___ GOVERNOR'S APPOINTMENT

Board Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
___ X ___ PENDING

Agency Secretary Position:

___ S ___ O
___ SA ___ OUA
___ N ___ NP
___ NA ___ NAR
DEFER TO _____

GOVERNOR'S OFFICE USE

Position Approved ___
Position Disapproved ___
Position Noted ___

Department/Legislative Director Date
Johnnie Lou Rosas 2/26/98

Agency Secretary Date

By: Date:

The department's analysis of the bill as amended January 15, 1998, still applies. The following policy, implementation, and technical considerations included in the department's analysis of the bill as amended January 15, 1998, are provided below for convenience.

Policy Considerations

Most credits are enacted with a sunset date so the Legislature may review their effectiveness. The HOPE and lifetime learning credits do not contain sunset dates. However, the comparable federal credits are permanent.

Implementation Considerations

Federal law allows the deduction for interest on education loans to be taken in computing adjusted gross income (AGI). Thus, all taxpayers paying this type of interest receive the benefit of the deduction, not only those who itemize deductions. This is known as an above-the-line deduction. As an above-the-line deduction on the federal return, this interest deduction will appear on a significant number of the most simple returns (i.e. the 1040EZ and TELEFILE returns).

The California return begins with federal AGI. Since the bill currently does not contain the federal language that would allow this same above-the-line treatment for state purposes, an adjustment to federal AGI would be required. These adjustments are allowed only as itemized deductions and must be made only on the long Form 540. Thus, those taxpayers who previously were eligible to file the most simple state returns (i.e. 540EZ and TELEFILE returns) and wished to receive the benefit of this deduction would be required to itemize their deductions and file the long form 540 instead of simply claiming an above-the-line deduction, consistent with their federal deduction (thereby avoiding a federal-state difference.

Technical Considerations

In subdivision (c) of Section 17053.51 as added by this bill, the reference to "Section 25A(c)(2)(A)" should instead read "Section 25A(c)(2)(A) of the Internal Revenue Code".